IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JAMES HALL,   )
)
            Plaintiff,   )
)
        v.   )   C.A. No. 04-1328-GMS
)
DAVID HOLMAN, Deputy Warden   )
LAWRENCE MEGUIGAN, and   )
Acting Deputy Warden Clyde Sagers   )
)
            Defendants.   )

DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME

COME NOW, defendants David Holman, Lawrence Mcguigan (deceased), and

Clyde Sagers ("Defendants"), by and through undersigned counsel, and hereby move this

Honorable Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, to enter

an Order enlarging the time within which to complete fact discovery in the above-

captioned case. In support of their motion, Defendants allege as follows:

1.   On or about October 4, 2004, James Hall ("Plaintiff"), an inmate who was

at that time incarcerated at the Delaware Correctional Center in Smyrna, Delaware,

commenced this 42 *U.S.C.* § 1983 in the United State District Court for the District of

Delaware. (D.I. 1, 2).

2.   The Court entered a Scheduling Order in this matter on September 22,

2006. The Order provided that fact discovery was to be completed by March 21, 2007.

(D.I. 45).

3.   Defendants filed a motion for enlargement of time to complete discovery

on March 21, 2007. In their motion, Defendants discussed and documented Plaintiff's

failure to respond to discovery requests, communicate with counsel for Defendants, or prosecute his case. The Court granted the enlargement and set the new fact discovery deadline for May 4, 2007.

3.   Counsel continued to attempt to communicate with Plaintiff and to depose Plaintiff.   Plaintiff still has not responded nor did he appear for his deposition. Defendants discussed and documented these efforts in a Motion to Compel/Motion for Sanctions filed on April 27, 2007. (D.I. 60).

4.   Plaintiff has not responded to the Motion to Compel/Motion for Sanctions and the Court has not yet issued a decision on the motion.

5.   Plaintiff continues to be unresponsive to counsel's requests to communicate. As a result of Plaintiff's failure to respond or communicate, Defendants have been unable to complete discovery within the Court's second established deadline and have been prejudiced in their preparation of a defense.

6.   Defendants thus seek an enlargement of 90 days to the discovery deadline to complete discovery.

WHEREFORE, pursuant to Federal Rule 6(b), for the hereinabove reasons, Defendants respectfully request that this Honorable Court grant Defendants request for an extension of time and set the deadline for the completion of fact discovery to August 4, 2007.

> **STATE OF DELAWARE**
> **DEPARTMENT OF JUSTICE**
>
> /s/ Stacey Xarhoulakos_____
> Stacey Xarhoulakos, ID#4667
> Deputy Attorney General
> Department of Justice
> State of Delaware

Carvel State Office Building
820 North French Street, 6th fl.
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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v.	)	C.A. No. 04-1328-GMS
	)	
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LAWRENCE MEGUIGAN, and	)	
Acting Deputy Warden Clyde Sagers	)	
	)	
Defendants.	)	

16.5 CERTIFICATE OF COUNSEL

In compliance with Local Rule of Civil Procedure 16.5, counsel for the Defendants making the request for enlargement of time to complete discovery files this Certificate and states:

I certify that the Defendants have been provided with copies of the Motion for Enlargement of Time and that service has been sent by regular mail.

<div style="margin-left:50%">

STATE OF DELAWARE
DEPARTMENT OF JUSTICE
/s/ Stacey Xarhoulakos_____
Stacey Xarhoulakos, ID#4667
Deputy Attorney General
820 N. French Street, 6th floor
Wilmington, DE 19801
(302) 577-8400
stacey.xarhoulakos@state.de.us
Attorney for Defendants

</div>

Date: May 4, 2007

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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Plaintiff,	)	
	)	
v.	)	C.A. No. 04-1328-GMS
	)	
DAVID HOLMAN, Deputy Warden	)	
LAWRENCE MEGUIGAN, and	)	
Acting Deputy Warden Clyde Sagers	)	
	)	
Defendants.	)	

7.1.1 CERTIFICATION OF COUNSEL

Counsel for the Defendants files this certification in compliance with Rule 7.1.1

of the Local Rules of Civil Procedure and certifies that:

1.   Plaintiff is unable to be reached by telephone as he did not provide a

telephone number with his address update upon his release from prison.

2.   Plaintiff has not responded to counsel's attempts to communicate through

correspondence. Thus counsel for the defendants has spent no time in attempting to

reach an agreement on the subject of the motion for enlargement of time.

3.   Accordingly, counsel assumes that the motion is opposed.

> **DEPARTMENT OF JUSTICE**
> **STATE OF DELAWARE**
>
>
> /s/ Stacey Xarhoulakos_____
> Stacey Xarhoulakos, ID#4667
> Deputy Attorney General
> Department of Justice
> State of Delaware
> Carvel State Office Building
> 820 North French Street, 6th Fl.,

Wilmington, DE 19801
(302) 577-8400

Attorney for Defendants

Dated: May 4, 2007

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FOR THE DISTRICT OF DELAWARE

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Plaintiff,	)	
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DAVID HOLMAN, Deputy Warden	)	
LAWRENCE MEGUIGAN, and	)	
Acting Deputy Warden Clyde Sagers	)	
	)	
Defendants.	)	

O R D E R

This _____ day of _____, 2007,

WHEREAS, Defendants having requested an enlargement of time of ninety (90)

days in which to complete fact discovery; and

WHEREAS, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED, that Defendants' Motion for Enlargement of Time

be granted and the parties shall complete fact discovery on or before August 4, 2007.

_____
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2007, I electronically filed *Defendants' Motion for an Enlargement to the Discovery Deadline* with the Clerk of Court using CM/ECF. I hereby certify that on May 4, 2007, I have mailed by United States Postal Service, the document to the following non-registered party:

James Hall
Pro Se
6269 Oxon Hill Road
Apt. B-1
Oxon Hill, MD 20745-9079

     and

10904 Hidden Creek Court
Ft. Washington, MD 20744

/s/ Stacey Xarhoulakos
Stacey Xarhoulakos (I.D. 4667)
Deputy Attorney General
Department of Justice
820 N. French St., 6th Floor
Wilmington, DE 19801
(302) 577-8400
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Attorney for Defendants